UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,263	03/31/2004	Kalle Kangas	853.0003.U1(US)	7473

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EXAMINER
WENDELL, ANDREW

ART UNIT	PAPER NUMBER
2618	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

	Application No.	Applicant(s)
Office Action Summary	10/815,263	KANGAS ET AL.
	Examiner	Art Unit	
	ANDREW WENDELL	2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 June 2008*.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,4-7,10-12 and 14-20* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1,4-7,10-12 and 14-20* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
        1.☐ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____.
        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)
1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 15-17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 15-17 are drawn to a "program" per se as recited in the preamble and as such is non-statutory subject matter. See MPEP 2106.IV.B.1.a. Data structures not claimed as embodied in computer readable media are descriptive material per se and are not statutory because they are not capable of causing functional change in the computer. See, e.g., Warmerdam, 33 F.3d at 1361, 31 USPQ2d at 1760 (claim to a data structure per se held nonstatutory). Such claimed data structures do not define any structural and functional interrelationships between the data structure and other claim aspects of the invention, which permit the data structure's functionality to be realized. In contrast, a claimed computer readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the computer software and hardware components which permit the data structure's functionality to be realized, and is thus statutory. Similarly, computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and

other claimed elements of a computer, which permit the computer program's

functionality to be realized. Note, changing "A computer program product comprising"

to "A memory embodying a computer program comprising" will overcome the rejection.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 1, 4-7, 10, and 14-20 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Crocker et al. (US Pat Appl# 2004/0198366) in view of Guo (US Pat

Appl# 2006/0002338) and further in view of Foltan et al. (US Pat# 7,310,338).

Regarding claim 1, Crocker et al. communication retry method over digital

wireless systems teaches a method for establishing a wireless data transfer connection

between a remote application (call center) 170 (Fig. 1) and a controlling application

(mobile vehicle telematics unit) 120 (Fig. 1), where the wireless link from the remote

application is implemented by a wireless terminal connected to the remote application,

the method comprising arranging a group of allowable connection parameter settings

210 and 260 (Fig. 2), each connection parameter setting corresponding to a different

service bearer (Section 0034, i.e. SMS, internet, voice, etc.); attempting to use a

default connection parameter setting 210 (Fig. 2), wherein the default connection

parameter setting corresponds to a default service bearer; detecting that the default

service bearer is not usable to establish a wireless data transfer connection 220 (Fig.

2); selecting another connection parameter setting for the wireless link from the group

of allowable connection parameter settings 260 (Fig. 2 and Sections 0034-0035), until

a usable service bearer is identified, to perform the wireless data transfer 260 and 280

(Fig. 2). Crocker et al. fails to teach connection parameter settings in a pre-determined

order and changing the default connection.

Guo's transmission rate change in communications networks teaches arranging

a group of allowable connection parameter settings (transmission power) in a pre-

determined order S3-S8 (Fig. 3); attempting to use a default connection parameter

setting S1-S3 (Fig. 3); detecting that the default service bearer is not usable S3-S8

(Fig. 3); serially selecting another connection parameter setting for the wireless link

from the group of allowable connection parameter settings in the pre-determined order

one-after-another until a usable service bearer (communication link that is supported)

is found S4-S8 (Fig. 3).

Therefore, it would have been obvious at the time of the invention to one of

ordinary skill in the art at the time the invention was made to incorporate connection

parameter settings in a pre-determined order as taught by Guo into Crocker et al.

communication retry method over digital wireless systems in order to provide highest

data rate, minimum transmit power, low delay, and low interference (Section 0011).

Crocker and Guo fail to teach changing the default connection.

Foltan teaches setting the default connection parameter setting to the usable

service bearer (Col. 29 lines 44-53).

Therefore, it would have been obvious at the time of the invention to one of ordinary skill in the art at the time the invention was made to incorporate changing the default connection as taught by Foltan into connection parameter settings in a pre-determined order as taught by Guo into Crocker et al. communication retry method over digital wireless systems in order to increase optimization of different services and lower costs (Col. 3 lines 32-63).

Regarding claim 4, Crocker et al. further teaches where the original connection parameter setting is restored when a predetermined time (any time limit), defined by the controlling or remote application, has been lapsed after the successful data transfer connection. The first link is predetermined set (Sections 0028-0029) it would be obvious that the system would default back to the first link because it is the predetermined main way to communicate and the second link is not the desired mode to communicate. It has to happen at a predetermined time (any time) for it to actually restore to the default connection.

Regarding claim 5, Crocker et al. further teaches attempting to establish a data transfer connection with a default connection parameter 210 (Fig. 2); determining if a data transfer connection has been established using the default connection parameter 220 (Fig. 2); if no data transfer connection has been established, trying a second time to establish a data transfer connection with the default connection parameter setting 250 (Fig. 2); and using the usable connection parameter setting to establish the data transfer connection 210 or 260 (Fig. 2 and Sections 0034-0035).

Regarding claim 6, Crocker et al. further teaches further comprising noticing that the connection establishment is not possible because there is no backup connection parameter settings defined according to the third comparison phase or allowed according to the fourth comparison phase 270 ("Yes," Fig. 2).

Regarding claim 7, Crocker et al. teaches a wireless terminal (mobile vehicle telematics unit) 120 (Fig. 1) connected to a remote application (call center) 170 (Fig. 1), the wireless terminal comprising transmitting and receiving means (Sections 0013-0016), a memory (Sections 0013-0015), an application interface (Sections 0013-0015) and a control unit (Sections 0013-0015), where the control unit further comprises a control logic (Section 0013-0014), the control logic configured to attempt to use a default connection parameter setting 210 (Fig. 2), wherein the default connection parameter setting corresponds to a particular service bearer (Sections 0027-0028); to detect that the default connection parameter setting for the wireless link is not usable 220 (Fig. 2); select another connection parameter setting for the wireless link from the group of allowable connection parameter settings 260 (Fig. 2 and Sections 0034-0035), wherein each of the allowable connection settings corresponds to a different service bearer (Section 0034). Crocker et al. fails to teach connection parameter settings in a pre-determined order and changing the default connection.

Guo teaches attempting to use a default connection parameter setting S1-S3 (Fig. 3); detecting that the default connection parameter setting for the wireless link is not usable S3-S8 (Fig. 3); serially selecting another connection parameter setting for the wireless link from the group of allowable connection parameter settings, wherein

the group of allowable connection parameter settings is ordered in a predetermined

order, and wherein the connection parameter settings are serially selected, one-after-

another, in the pre-determined order, until a usable service bearer (communication link

that is supported) is identified to perform the wireless data transfer S4-S8 (Fig. 3).

Crocker and Guo fail to teach changing the default connection.

Foltan teaches setting the default connection parameter setting to the usable

service bearer (Col. 29 lines 44-53).

Regarding claim 10, Crocker et al. further teaches restoring the original

connection parameter setting is restored when a predetermined time (any time limit),

defined by the controlling or remote application, has been lapsed after the successful

data transfer connection. The first link is predetermined set (Sections 0028-0029) it

would be obvious that the system would default back to the first link because it is the

predetermined main way to communicate and the second link is not the desired mode

to communicate. It has to happen at a predetermined time (any time) for it to actually

restore to the default connection.

Regarding claim 14, Guo further teaches a list of allowable service operators in

preferred order S3-S8 (Fig. 3).

Regarding claim 15, Crocker et al. teaches detecting a need for a data transfer

across a wireless link 210 (Fig. 2); checking a default connection parameter setting 220

(Fig. 2), wherein the default connection parameter setting corresponds to a particular

service bearer (Section 0027-0028); attempting to establish a connection with the

default connection parameter setting 210 (Fig. 2); determining if the data transfer

connection has been established using the default connection parameter setting 220

(Fig. 2); if no data transfer connection has been established, trying a second time to

establish a data transfer connection with the default connection parameter setting 250

(Fig. 2); if no data transfer connection is established after the second try, serially

selecting another connection parameter setting for the wireless link from a group of

allowable connection parameter settings 260 (Fig. 2 and Sections 0034-0035); and

establishing a data transfer connection with the usable service bearer 260 and 280

(Fig. 2), each of the connection parameter settings in the group of allowable connection

parameter settings corresponding to a different service bearer (Section 0034). Crocker

et al. fails to teach connection parameter settings in a pre-determined order and

changing the default connection.

Guo teaches checking a default connection parameter setting S3 (Fig. 3, power

transmission); attempting to establish a connection with the default connection

parameter setting S1-S3 (Fig. 3); determining if the data transfer connection has been

established using the default connection parameter setting S3 (Fig. 3); serially

selecting another connection parameter setting for the wireless link from a group of

allowable connection parameter settings, wherein the group of allowable connection

parameter settings is ordered in a predetermined order, and wherein the connection

parameter settings are serially selected, one-after-another in the pre-determined order,

until a usable service bearer (communication link that is supported) is found S4-S8

(Fig. 3); establishing a data transfer connection with the service bearer S9-S10 (Fig. 3).

Crocker and Guo fail to teach changing the default connection.

Foltan teaches setting the default connection parameter setting to the usable

service bearer (Col. 29 lines 44-53).

Regarding claim 16, Crocker et al. further teaches which further comprises

noticing that the connection establishment is not possible because there is no backup

connection parameter settings defined 270 ("Yes," Fig. 2).

Regarding claim 17, Crocker et al. further teaches a computer program saved on

an information carrier (Sections 0013-0015).

Regarding claim 18, Crocker et al. teaches detecting that a default connection

parameter setting for the wireless link is not usable 220 (Fig. 2), wherein the default

connection parameter setting corresponds to a particular service bearer (Sections

0027-0028); determining if a command has been received from a controlling

application changing a default order for selection of connection parameter settings to a

new order 250 and 260 (Fig. 2 and Sections 0034-0035) and, if so, selecting a

connection parameter setting in the new order established by the controlling application

260 (Fig. 2), wherein each of the connection parameter settings in the default and new

orders corresponds to a different service bearer (Sections 0027-0028 and 0034); and if

no command has been received from the controlling application, selecting the

connection parameter setting for the wireless link from a group of allowable connection

parameter settings 260 (Fig. 2). Crocker et al. fails to clearly teach a new order and

changing the default connection.

Guo teaches detecting that a default connection parameter (transmission power)

setting for the wireless link is not usable S3 (Fig. 2); determining if a command has

been received from a controlling application changing an originally-defined order for

selection of connection parameter settings to a new order and, if so, selecting a

connection parameter setting in the new order established by the controlling application

S3-S8 (Fig. 3); serially selecting another connection parameter setting for the wireless

link from the group of allowable connection parameter settings in the default order one-

after-another until a usable connection parameter setting is identified S3-S8 (Fig. 3).

Crocker and Guo fail to teach changing the default connection.

Foltan teaches setting the default connection parameter setting to the usable

service bearer (Col. 29 lines 44-53).

Regarding claim 19, Crocker et al. teaches arranging a group of allowable

service operators (Sections 0034-0035), wherein a service operator ordered first

comprises a default service operator 210 (Fig. 2); arranging a group of allowable

connection parameter settings (Sections 0034-0035), wherein each of the connection

parameter settings corresponds to a different service bearer (Sections 0027-0028 and

0034), and wherein a connection parameter setting ordered first comprises a default

connection parameter setting 210 (Fig. 2); attempting to use the default service

operator 210 (Fig. 2); if the default service operator is not usable, selecting another

service operator from the group of allowable service operators 220 and 260 (Fig. 2);

detecting a need for a data transfer over a wireless link 210 (Fig. 2); attempting to use

the default connection parameter setting 210 (Fig. 2); detecting that the default

connection parameter setting is not usable, selecting another connection parameter

setting for the wireless link from the group of allowable connection parameter settings

260 (Fig. 2 and Sections 0034-0035), wherein the usable connection parameter setting

corresponds to a particular service bearer (Sections 0027-0028 and 0034). Crocker et

al. fails to teach connection parameter settings in a pre-determined order and changing

the default connection.

Guo teaches arranging a group of allowable service operators (power

transmission) in a pre-determined order S3-S8 (Fig. 3), wherein a service operator

ordered first comprises a default service operator S1-S3 (Fig. 3); arranging a group of

allowable connection parameter settings in a pre-determined order, wherein a

connection parameter setting ordered first comprises a default connection parameter

setting; attempting to use the default service operator S3-S8 (Fig. 3); if the default

service operator is not usable, serially selecting another service operator from the

group of allowable service operators in the pre-determined order one-after-another until

a usable service operator is found S3-S8 (Fig. 3); detecting a need for a data transfer

over a wireless link S1-S3 (Fig. 3); attempting to use the default connection parameter

setting S1-S3 (Fig. 3); detecting that the default connection parameter setting is not

usable, serially selecting another connection parameter setting for the wireless link

from the group of allowable connection parameter settings in the pre-determined order

one-after-another until a usable connection parameter setting is identified S3-S8 (Fig.

3).

Crocker and Guo fail to teach changing the default connection.

Foltan teaches setting the default connection parameter setting to the usable

service bearer (Col. 29 lines 44-53).

Regarding claim 20, Crocker et al. teaches where the control unit (Sections 0013-0015) further comprises a control logic, the control logic configured to attempt to use a default connection parameter setting 210 (Fig. 2), the default connection parameter setting corresponding to a particular service bearer (Sections 0027-0028); to detect that the default connection parameter setting is not usable 220 (Fig. 2); to select a connection parameter setting for the wireless link from a group of allowable connection parameter settings 260 (Fig. 2 and Sections 0034-0035), wherein each of the allowable connection parameter settings comprising the group corresponds to a different service bearer (Section 0034); and selecting a service operator from a list of allowable service operators 260 (Fig. 2). Crocker et al. fails to teach connection parameter settings in a pre-determined order and changing the default connection.

Guo teaches attempting to use a default connection parameter setting S1-S3 (Fig. 3, transmission power); detecting that the default connection parameter setting is not usable S3 (Fig. 3); selecting a connection parameter setting for the wireless link from a group of allowable connection parameter settings S4-S8 (Fig. 3); and serially to select a service operator from a list of allowable service operators, wherein the list is in a pre-determined order, and wherein the service operators are selected one-after-another in the pre-determined order S3-S8 (Fig. 3).

Crocker and Guo fail to teach changing the default connection.

Foltan teaches setting the default connection parameter setting to the usable service bearer (Col. 29 lines 44-53).

4.   Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Crocker et al. (US Pat Appl# 2004/0198366) in view of Guo (US Pat Appl#

2006/0002338) and further in view of Foltan et al. (US Pat# 7,310,338) and further in

view of Provost et al. (US Pat Appl# 2004/0203948).

Regarding claim 11, Crocker et al. communication retry method over digital

wireless systems in view of Guo's transmission rate change in communications

networks and further in view of Foltan teaches the limitations in claim 7. Crocker et al.,

Folton, and Guo fails to teach a GSM terminal.

Provost et al. system for acknowledging a message received on a mobile

terminal teaches where the wireless terminal is a GSM terminal (Sections 0048 and

0061-0062).

Therefore, it would have been obvious at the time of the invention to one of

ordinary skill in the art at the time the invention was made to incorporate a GSM

terminal as taught by Provost et al. into changing the default connection as taught by

Foltan into connection parameter settings in a pre-determined order as taught by Guo

into Crocker et al. communication retry method over digital wireless system in order to

provide a read acknowledgment system (Section 0005).

Regarding claim 12, Provost et al. further teaches where the group of allowable

connection parameter settings allowed for GSM terminal comprises at least two of the

following: GPRS (Section 0002) and SMS (Sections 0031 and 0048).

Response to Arguments

Applicant's Remarks	Examiner's Response

"The relied-upon art shows no appreciation for this mode of operation. This mode of operation has the particular advantage of not reverting back to a default parameter setting that is already known not to be usable. It is typical that when a service bearer becomes unusable this state persists for a period of time. This aspect of Applicants' invention avoids the waste of time associated with switching away from a service bearer that is already known not to be usable after a successful wireless data transfer has been effected with an alternate service bearer."	Foltan clearly teaches making changes to a default parameter in Col. 29 lines 44-53. In table 8 (Col. 29 lines 31-33) it explains that "SERVICE_SET_DEFAULT_PARAM_CMD" is a default configuration value associated with a service. When there are changes to the service connection the default value in the "subsequent session setup commands messages will pick up the new configuration values" to the default value.
"That the default service parameters in Foltan concern a particular service, and do not concern a default connection parameter setting that corresponds to a particular service bearer, wherein the default connection parameter setting is changed to a useable service bearer	See above response. Keep in mind that the rejection is a combination of Crocker, Guo, and Foltan. Keeping that in mind, Foltan is just used to teach changing the default connection in the whole combination.

| when the initial default service bearer is found not to be able to perform the service as in Applicants' claim 1". | |

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANDREW WENDELL whose telephone number is (571)272-0557. The examiner can normally be reached on 7:30-5 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 571-272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Andrew Wendell/   /Nay A. Maung/
Examiner, Art Unit 2618   Supervisory Patent Examiner, Art
                                                    Unit 2618

9/15/2008